IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23581 of 2004

Between:

Neela Buchaiah, S/o.Gopaiah,
R/o.Devarakonda Village & Mandal, Nalgonda District.

..... PETITIONER

AND

1 The Revenue Divisional officer, Miryalaguda, Nalgonda District.
2 The Joint Collector, Nalgonda, Nalgonda District.
3 The Mandal Revenue officer, Devarakonda, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the order dated 7-12-2004 in proceedings No.E2/3429/2004 passed by teh 1st respondent herein, and also the action of the 2nd respondent in not disposing the appeal or stay petition filed against order dated 7-12-2004 passed by the 1st respondent as illegal, arbitrary.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The authorisation of the petitioner was cancelled through proceedings dated 07-12-2004 by the first respondent on the allegation that the petitioner is running a Kirana shop. The petitioner preferred an appeal before the second respondent, together with an application for stay. The second respondent rejected the application for stay. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Learned counsel for the petitioner submits that the first respondent did not state any reason while cancelling the licence except observing that the explanation offered by the petitioner is not convincing. He submits that the shop referred to in the impugned order was being run by his sons and he has nothing to do with the same.

Learned Government Pleader for Civil Supplies, on the other hand, submits that once the authorisation is cancelled, the validity of such an order cannot be considered on appeal after verification of the records. By its very nature, the order of cancellation cannot be stayed.

The main contention advanced on behalf of the learned counsel for the petitioner is that the first respondent did not apply his mind to the facts of the case. It

is true that in the impugned order the first respondent neither discussed the matter nor recorded any finding on the basis of such discussion. Except stating that the explanation offered by the petitioner is not convincing, no definite finding was recorded. Further, the observations are on the basis of “presumptions”. Though, basically it can be said that there was an improper exercise of power by the first respondent, once the petitioner had availed the remedy of appeal, this Court would be reluctant to pass an interim order enabling him to continue as dealer. This Court has been consistently refusing to grant any interim orders in the matters of cancellation of licences, except where such orders are passed in violation of principles of natural justice or by an authority without jurisdiction.

Hence, the writ petition is disposed of directing the second respondent to pass appropriate orders in the appeal within a period of four weeks from the date of receipt of a copy of this Court. The first respondent shall not appoint any dealer on regular basis till the disposal of the appeal. No order as to costs.

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27-12-2004

Note: Issue C.C. by one week

(B/o)

kdl

To

1 The Revenue Divisional officer, Miryalaguda, Nalgonda District.
2 The Joint Collector, Nalgonda, Nalgonda District.
3 The Mandal Revenue officer, Devarakonda, Nalgonda District.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

5 Two C.D. Copies